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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA,) No. CR 08-00088 JW
15 Plaintiff,)
16 v.)
17 DAVID LOUIS BEHAR,)
LINDSAY ROBIN HOGUE,)
18 TARA BERGSTRAND, and)
JOHN ROGER LAGACE)
19)
20 Defendants.)
21 _____)

STIPULATION AND ORDER TO
PRODUCE REPRESENTATIVE SAMPLE
OF NARCOTICS FOR TESTING BY
DEFENSE EXPERT

22 IT IS HEREBY STIPULATED and requested by the parties that the court sign the

23 attached proposed order regarding the retesting of representative samples of alleged Lysergic
24 acid diethylamide (LSD) by the defense expert in this case.

25
26 It is so stipulated.

27 Dated: ___3/4/08_____

/s/
JEFFREY B. SCHENK
Assistant U.S. Attorney

1 It is so stipulated:

2 Dated: __3/4/08_____

/s/
PETER LEEMING
Attorney for Mr. Behar

4 It is so stipulated:

5 Dated: __3/4/08_____

/s/
GEOFFREY BRAUN
Attorney for Ms. Hogue

7 It is so stipulated:

8 Dated: __3/4/08_____

/s/
MANUEL ARAUJO
Attorney for Ms. Bergstrand

10 It is so stipulated:

11 Dated: __3/4/08_____

/s/
JERRY FONG
Attorney for Mr. Lagace

14 ORDER

15 UPON THE DEFENDANT'S REQUEST for an order which requires the Government to
16 produce the following exhibits, to wit:

17 Exhibit Number

17 DEA Laboratory Number

18 1

18 7144015

19 6

19 7144020

20 as reported in DEA FORM-7, REPORT OF DRUG PROPERTY COLLECTED, PURCHASED
21 OR SEIZED, having the Case File No. RC 08-0009, and dated November 30, 2007, for
22 qualitative analysis and identification of the controlled substance contained therein by a defense
23 expert,

24 IT IS HEREBY ORDERED and DECREED that Drug Enforcement Administration (DEA)
25 Special Agent or Task Force Officer shall deliver the drug exhibit(s) identified above to Judith
26 Stewart, DEA License No. RF1093778, of Forensic Analytical Sciences, Inc., located at 3777
27 Depot Road, Suite 403, Hayward, CA 94545, telephone no. 510-266-8100. The DEA Western
28 Laboratory shall arrange the delivery of said representative sample(s) on or before March 7,

1 2008 to the DEA Special Agent or Task Force Officer for delivery to Judith Stewart of the
2 Forensic Analytical Sciences, Inc. Laboratory; and

3 IT IS FURTHER ORDERED, that upon said delivery of the exhibit(s) identified above to the
4 defense expert, that a DEA Special Agent or Task Force Officer shall be present when the
5 defense expert inspects, weighs and removes a representative sample of the exhibit(s) identified
6 above for analysis. The representative sample shall be in an amount not to exceed 500 mgs from
7 each of the above-described exhibit(s). The weight of each representative sample taken shall be
8 documented and signed by the defense expert and provided to the DEA Special Agent or Task
9 Force Officer in attendance. Upon the completion of the sample removal and weighing, the
10 DEA Agent and Task Force Officer in attendance shall, forthwith, return the remaining above-
11 listed exhibit(s) to the DEA Western Laboratory; and

12 IT IS FURTHER ORDERED, that the defense expert shall conduct the qualitative analyses
13 and identification ordered herein, and shall provide the Government with an *Unsworn*
14 *Declaration Under Penalty of Perjury*, under 28 U.S.C. § 1746, executed by the individual who
15 conducted the analyses, or the head of the facility where the analyses occurred, which states the
16 quantity of each exhibit consumed during testing, and either the weight of each exhibit returned
17 to the Government, or a statement that all of the sample was consumed during testing; and

18 IT IS FURTHER ORDERED, that all remaining material of the sample(s), after testing, is to
19 be returned by Judith Stewart to the DEA Western Laboratory via registered U.S. Mail, return
20 receipt requested, or approved commercial carrier, with five (5) business days after the
21 completion of analyses; and

22 IT IS FURTHER ORDERED, in accordance with FED. R. CRIM. P. 16(b)(1)(B), that the
23 defendant shall provide the Government with a copy of the results or report of the physical
24 examinations and scientific tests or experiments which results from the analyses conducted under
25 this Order; and

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1 IT IS FURTHER ORDERED, that Judith Stewart is to safeguard the representative sample(s)
2 received, preserving the chain of custody in a manner to faithfully protect the integrity of each
3 exhibit received.

4 SO ORDERED this _____ day of March 2008.

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6 BY THE COURT:
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10 UNITED STATES DISTRICT JUDGE